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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,592	03/21/2001	Daniel J. Lubera	0275M-000320/CPA	3509

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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/813,592

Applicant(s)

LUBERA ET AL.

Examiner

Ruth C. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6, 9-14, 18, 19, 22-27, 57-64 and 68-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-14, 18, 19, 22 and 68-94 is/are allowed.
- 6) ☒ Claim(s) 2-6, 23-27 and 57-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2-5 and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by Murray (US 4,300,865).

A resilient clip (10) secures a first member (P) to a second member (W) (Fig. 1). The resilient clip comprising a flange portion (12), an inserting portion (16) and a retaining portion (22). The flange portion has an aperture (13) to receive a threaded fastener (S) to couple the second member to the flange portion (Fig. 1). The insertion portion is configured to be inserted into a hole (O) formed into the first member (Fig. 1). The inserting portion is coupled to the flange portion (Figs. 1-5). The retaining portion is coupled to the insertion portion and has first and second wing members (22). Each of the first and second wing members have opposing lateral edges (Fig. 2-5). Each of the first and second wing members are coupled to the insertion portion at a location between the opposite lateral edges (Fig. 3). The first wing member is twisted about a first axis in a first direction (Figs. 2 and 3). The second wing member is twisted about a second axis in the first direction (Figs. 2 and 3). Each of the first and second wing members have a tip portion (22c). The tip portion of the first wing member and the tip

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portion of the second wing member are configured to co-engage with the first member (Fig. 1). Each of the first and second axes is generally parallel a longitudinal axis of retention (C. 2, L. 49-51 and Figs. 2 and 3). Each of the tip portions is angled such that a lateral end of an associated one of the first and second wing members extends above an opposite lateral end of the associated one of the first and second wing members (Figs. 2 and 4).

Murray also discloses that:

- The tip portion is defined by an included angle of about 30 degrees to about 80 degrees (Figs. 2 and 4).
- The included angle of the tip portion is about 60 degrees (Figs. 2 and 4).
- The tip portion has a flat edge for contacting the first member (Figs. 2-4).
- Each of the first and second wing members further include a base portion (16a) that is fixedly coupled to the insertion portion (Figs. 2-5). The first and second wing members being twisted such that the their tip portions are twisted relative to their base portion by an angle of about 5 degrees to about 45 degrees (Figs. 2-5).

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murray.

Murray discloses a resilient clip having the limitations listed above in paragraph 2 for the rejection of claim 57. Murray fails to disclose that the angle is 30 degrees.

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However, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have the angle being about 30 degrees. A change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murray in view of Anderson (US 5,251,467).

Murray discloses a resilient clip having the limitations listed above in paragraph 2 for the rejection of claims 2-5. Murray fails to disclose that the tip portion has an edge for contacting the first member into which a plurality of teeth is formed. However, Anderson teaches a cam lock comprising a pair of wing members (25). The wing members initially are shown have an edge with a flat surface for contacting a structure (5,6) (Figs. 5 and 6). Anderson also teaches that the wing members have an edge with a plurality of teeth (Fig. 7). The teeth will lock the edges of the wing members against the structure and allow for variations in thickness of the structure. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use a plurality of teeth in the edge of the wing members as shown by Anderson in the resilient clip disclosed by Murray. Doing so, will lock the edges of the wing members against the structure and allow for variations in the thickness of the structure.

6. Claims 23, 24, 26 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer (US 5,919,019) in view of Murray.

Fischer discloses a resilient clip (10) for engaging a structure (14) (Fig. 5). The resilient clip comprising a body portion having a pair of flanges (12), a pair of wing members (44,46) and a pair of abutting members (48). Each of the wing members has a base portion coupled to an associated one of the pair of flanges (Figs. 1, 2 and 4). Each of the wing members terminates at a tip portion (50). The tip portions of the wing members are configured to co-engage a first side of the structure and position a second side of the structure against the abutting members. Fischer fails to disclose that the wing members are angled downward toward the base. However as mentioned above, Murray teaches a resilient clip comprising wing members angled downward toward the base portion (Figs. 2-4). Each of the wing members has a base portion with opposite lateral edges (Figs.2-4). The base portion of each wing member is coupled to an associated one of the flanges at a location between its lateral edges (Fig. 3). The construction of the wing members allows easy insertion of the clip and the extraction of the clip is very difficult once the clip is inserted into an opening of the structure (C. 3, L. 16-32). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the wing members angled downward toward the base portion as taught by Murray in the retaining portion of the resilient clip disclosed by Fischer. Doing so, will difficult the extraction of the clip from the structure.

The resilient clip disclosed by Fischer further comprises a flange portion (12) coupled to the body portion. The flange portion including an aperture (16) adapted to threadably engage a threaded fastener. Fischer fails to disclose that the aperture includes a helical lip. However, it would have been obvious to one having ordinary skill

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in the art at the time the invention was made to use a helical lip instead of the sleeve disclosed by Fischer. Since the applicant does not provide any particular reason to use the helical lip instead of sleeve, one having ordinary skill in the art will recognize the interchangeable use of helical lips and sleeves to threadably engage a threaded fastener in resilient clips. Also, the sleeve simplifies the manufacture of the resilient clip since the helical lip is easily stamped in the flange.

Murray teaches that a lateral end of each tip portion includes a first lateral end and a second lateral end (26) opposite the first lateral end (Figs. 2-5). The first lateral end is nearest a central axis of the body portion and extending vertically above the second lateral end (Figs. 2-5).

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer/Murray as applied to claim 23 above, and further in view of Anderson.

The combination of Fischer and Murray used for the rejection of claim 23 has all the limitations listed above in paragraph 6. Fischer and Murray fail to disclose a plurality of teeth for contacting the structure. However as mentioned above, Anderson shows that the wing members have an edge with a plurality of teeth. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use a plurality of teeth in the edge of the wing members as shown by Anderson in the resilient clip disclosed by Fischer and modified by Murray. Doing so, will lock the edges of the wing members against the structure and allow for variations in the thickness of the structure.

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8. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer/Murray as applied to claim 26 above, and further in view of Hansz and Ueno.

The combination of Fischer and Murray having all the limitations listed above in paragraph 6 for the rejection of claim 26 fails to disclose a spacing structure having first and second flange members. However, Hansz demonstrates a mounting clip assembly (10) for securing a first member (26) to a second member (12). The clip assembly comprises a resilient clip (58) and a spacing structure (48). The spacing structure has a first flange coupled (52) to the flange portion of the resilient clip. The mounting clip assembly demonstrated by Hansz improves quality because it reduces loose assemblies and is easier to install (C. 2, L. 1-4). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use the a spacing structure as demonstrated by Hansz with the resilient clip disclosed by Fischer and modified by Murray. Doing so, will improve the quality of the installation because the system is easier to install and reduces loose assemblies due to clips not being seated properly.

Regarding to having a spacing structure with a second flange being coupled to an outer edge of the first flange, Ueno shows a connector device for securing a first member (P1) to a second member (P2) (Figs. 9-10(B)). The connector comprises a main body (3) having two flange members (1, 11) coupled to the outer edge of the main body and tapering downwardly toward the retaining portion (8a) and outwardly from the main body (Figs. 2-4 and 6). The flange members can elastically deform to prevent wobbling between the connector and the first or second members (C.6, L. 24-34).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a second flange member as shown by Ueno coupled to an outer edge of the flange member demonstrated by Hansz with the resilient clip disclosed by Fischer and modified by Murray. Doing so, will prevent wobbling between the resilient clip and the first structure.

9. Claims 59-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray as applied to claim 2 above, and further in view of Hansz and Ueno.

Murray discloses a resilient clip having all the limitations listed above in paragraph 2 for the rejection of claim 2. Murray fails to disclose a spacing structure having first and second flange members. However as described above, Hansz teaches a mounting clip assembly comprising a spacing structure. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use a spacing structure as taught by Hansz with the resilient clip disclosed by Murray. Doing so, will improve the quality of the installation because the system is easier to install and reduces loose assemblies due to clips not being seated properly.

Regarding to having a spacing structure with a second flange being coupled to an outer edge of the first flange, Ueno demonstrates a connector device comprising a main body having two flange members. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a second flange member as demonstrated by Ueno coupled to an outer edge of the flange member taught by Hansz with the resilient clip disclosed by Murray. Doing so, will prevent wobbling between the resilient clip and the first structure.

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Both Hansz (C. 3, L. 23-25) and Ueno (C. 2, L. 12-27) disclose that the spacing structure is formed from a resilient material and that resilient material is plastic.

Hansz discloses that the first flange member has a square shape. But, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to use a circular shape instead of a square shape because a change in shape of the prior art is considered a design choice. Also, one of ordinary skill in the art will recognize that the first flange member having a circular shape will perform equally as a flange member having a square shape specially since the applicant does not disclose and advantage derived from this shape.

Ueno shows a second flange member that extends entirely around a perimeter of the main body.

Allowable Subject Matter

10. Claims 9-14, 18, 19, 22 and 68-94 are allowed.

Response to Arguments

11. Applicant's arguments filed on March 14 2003 have been fully considered but they are not persuasive.

12. The argument presented by the Applicant is that Murray discloses a resilient clip having wing members that are coupled on a single lateral side to the insertion portion instead of having wing members coupled to the insertion portion at a location between the opposite lateral edges. The Examiner fails to be persuaded by this argument.

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Claim 2 recite that "each of the first and second wing members having opposite lateral edges, each of the first and second wing members being coupled to the insertion portion at a location between their lateral edges". The wing members of the resilient clip disclosed by Murray have two lateral opposite edges (22a that is joined to the insertion portion and the other edge of the wing member). Murray also discloses that each of the first and second wing member are coupled to the insertion portion at a location between their opposite lateral edges. From figure 3, one of ordinary skill in the art at the time of applicant's invention will recognize that one of the sides of the resilient clip has two wing members 22 and each of the wing members have a first lateral edge (free edge) opposite to a second lateral edge 22a where the first and second wing members are coupled to the insertion portion at a location (first lateral edge) between their opposite second lateral edges. This interpretation of the limitations added to the claim still can be read on Murray as explained above. Therefore, claim 2 is still unpatentable over Murray. Regarding claim 23, the same interpretation can be used for the limitations added to this claim since each of the wing members 22 has a base portion (lower part of the wing members) having opposite lateral edges (22a and its opposite free edge). From the combination with Fischer that have the flanges, the base portion of each wing member can coupled to an associated one of the flanges at a location (22a) between the opposite lateral edges (its opposite free edges). Therefore, claim 23 is also still unpatentable over Murray in combination with Fischer.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wiley (US 2,217,781), Poutpitch (US 2,509,192), Meyer (US 2,959,259), Osterland et al. (US 4,630,338), Kuffel (US 5,759,004), Cornell et al. (US 5,774,949) and Danby et al. (US 5,873,690) are cited to show state of the art with respect to resilient clips having some of the features disclosed by the current invention.

Hirohata (US 4,668,145) is cited to show state of the art with respect to a flange extending around the periphery of the main body of a fastener.

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Van Order et al. (US 5,636,891) is cited to show state of the art with respect to the use of spacing structures and resilient clips.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (703) 308-1881. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115.

Submissions of your responses by facsimile transmission are encouraged. Technology center 3600's facsimile number for before final communications is (703) 872-9326. Technology center 3600's facsimile number for after final communications is (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

RCR
rcr

May 27, 2003

J. J. Swann
J. J. SWANN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600